

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

AUTHORS GUILD, DAVID BALDACCI,  
MARY BLY, MICHAEL CONNELLY,  
SYLVIA DAY, JONATHAN FRANZEN,  
JOHN GRISHAM, ELIN HILDERBRAND,  
CHRISTINA BAKER KLINE, MAYA  
SHANBHAG LANG, VICTOR LAVALLE,  
GEORGE R.R. MARTIN, JODI PICOULT,  
DOUGLAS PRESTON, ROXANA  
ROBINSON, GEORGE SAUNDERS, SCOTT  
TUROW, and RACHEL VAIL, individually  
and on behalf of others similarly situated,

Plaintiffs,

v.

OPEN AI INC., OPENAI OPCO LLC,  
OPENAI GP LLC, OPENAI, LLC, OPENAI  
GLOBAL LLC, OAI CORPORATION LLC,  
OPENAI HOLDINGS LLC, OPENAI  
STARTUP FUND I LP, OPENAI STARTUP  
FUND GP I LLC, OPENAI STARTUP FUND  
MANAGEMENT LLC, and MICROSOFT  
CORPORATION,

Defendants.

JONATHAN ALTER, KAI BIRD, TAYLOR  
BRANCH, RICH COHEN, EUGENE  
LINDEN, DANIEL OKRENT, JULIAN  
SANCTON, HAMPTON SIDES, STACY  
SCHIFF, JAMES SHAPIRO, JIA  
TOLENTINO, and SIMON WINCHESTER,  
on behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

OPENAI, INC., OPENAI OPCO LLC,  
OPENAI GP, LLC, OPENAI GLOBAL LLC,  
OAI CORPORATION, LLC, OPENAI  
HOLDINGS, LLC, OPENAI STARTUP  
FUND I LP, OPENAI STARTUP FUND GP I  
LLC, OPENAI STARTUP FUND

Consolidated Cases:

Case No. 1:23-cv-08292-SHS-OTW

Case No. 1:23-cv-10211-SHS-OTW

MANAGEMENT LLC, and MICROSOFT CORPORATION,
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Defendants.
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**DEFENDANT MICROSOFT CORPORATION’S RESPONSE TO PLAINTIFFS’  
MOTION FOR LEAVE TO FILE UNDER SEAL**

Pursuant to Paragraph 25 of the Protective Order (ECF 338), Defendant Microsoft Corporation responds to Plaintiffs’ Motion for Leave to File Under Seal (ECF 350) filed in connection with Plaintiffs’ letter motion seeking financial information (“Letter Motion”) (ECF 356). For the reasons stated below, Microsoft respectfully requests the Court grant Plaintiffs’ Motion. Specifically, Microsoft requests that the redacted portion of the second full paragraph on page 2 of the Letter Motion as illustrated in the redacted Letter Motion filed at ECF 359 and Exhibit C to the Letter Motion be sealed.

Although “[t]he common law right of public access to judicial documents is firmly rooted in our nation’s history,” this right is not absolute and courts “must balance competing considerations against” the presumption of access. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119–20 (2d Cir. 2006). “The proponent of sealing ‘must demonstrat[e] that closure is essential to preserve higher values and is narrowly tailored to serve that interest.’” *Bernstein v. Bernstein Litowitz Berger & Grossman LLP*, 814 F.3d 132, 144 (2d Cir. 2016) (quoting *In re N.Y. Times Co.*, 828 F.2d 110, 116 (2d Cir. 1987)). “[T]he presumption of public access in filings submitted in connection with discovery disputes . . . is generally somewhat lower than the presumption applied to material introduced at trial, or in connection with dispositive motions . . . .” *Brown v. Maxwell*, 929 F.3d 41, 50 (2d Cir. 2019). “[W]hile a court must still articulate specific and substantial reasons for sealing such material, the reasons usually need not be as compelling as those required to seal summary judgment filings.” *Id.*

The Letter Motion contains a description of Exhibits C thereto, which is Microsoft's interrogatory responses that contain confidential information, the disclosure of which would unfairly prejudice Microsoft. Exhibit C to the Letter Motion, which has been designated "CONFIDENTIAL" pursuant to the Protective Order, contains confidential information about Microsoft's generative AI products. *See* Ex. A (Declaration of Lucky Vidmar). Microsoft requests that the redacted portion of the second full paragraph on page 2 of the Letter Motion is sealed from the public and Exhibit C be sealed in its entirety.

The information Microsoft seeks to seal and redact is the type of information commonly found to warrant sealing. *See* Order on Motions to Seal, ECF 132 (granting motions to seal similar information and documents in this case); *see also Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015) (citation omitted) (concluding that proposed redactions were "generally limited to specific business information and strategies, which, if revealed, 'may provide valuable insights into a company's current business practices that a competitor would seek to exploit.'").

For the reasons stated above, and those set forth in the Declaration of Lucky Vidmar, Microsoft respectfully requests that Plaintiffs' Motion for Leave to File Under Seal (ECF 350) be granted. Specifically, Microsoft requests that the redacted portion of the second full paragraph on page 2 of the Letter Motion as illustrated in the redacted Letter Motion filed at ECF 359 and Exhibit C to the Letter Motion be sealed.

Dated: April 4, 2025

Respectfully submitted,

/s/ Jared B. Briant

Jared B. Briant (admitted *pro hac vice*)

Kirstin L. Stoll-DeBell (admitted *pro hac vice*)

FAEGRE DRINKER BIDDLE & REATH LLP

1144 Fifteenth Street, Suite 3400

Denver, CO 80202  
Telephone: (303) 607-3500  
Facsimile: (303) 607-3600  
Email: jared.briant@faegredrinker.com  
Email: kirstin.stolldebell@faegredrinker.com

Annette L. Hurst (admitted *pro hac vice*)  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
The Orrick Building  
405 Howard Street  
San Francisco, CA 94105-2669  
Telephone: (415) 773-5700  
Facsimile: (415) 773-5759  
Email: ahurst@orrick.com

Christopher Cariello  
Marc Shapiro  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
51 West 52<sup>nd</sup> Street  
New York: NY 10019  
Telephone: (212) 506-3778  
Facsimile: (212) 506-5151  
Email: ccariello@orrick.com  
mrshapiro@orrick.com

Sheryl Koval Garko (admitted *pro hac vice*)  
Laura Brooks Najemy (admitted *pro hac vice*)  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
222 Berkeley Street, Suite 2000  
Boston, MA 02116  
Telephone: (617) 880-1800  
Facsimile: (617) 8801-1801  
Email: sgarko@orrick.com  
lnajemy@orrick.com

Carrie A. Beyer (admitted *pro hac vice*)  
FAEGRE DRINKER BIDDLE & REATH LLP  
320 South Canal Street, Suite 3300  
Chicago, IL 60606-5707  
Telephone: (312) 569-1000  
Facsimile: (312) 569-3000  
Email: carrie.beyer@faegredrinker.com

Jeffrey S. Jacobson  
FAEGRE DRINKER BIDDLE & REATH LLP

1177 Avenue of the Americas, 41<sup>st</sup> Floor  
New York, New York 10036  
Telephone: (212) 248-3140  
Facsimile: (212) 248-3141  
Email: jeffrey.jacobson@faegredrinker.com

Elizabeth M.C. Scheibel (admitted *pro hac vice*)  
FAEGRE DRINKER BIDDLE & REATH LLP  
2200 Wells Fargo Center, 90 S. 7<sup>th</sup> Street  
Minneapolis, MN 55402  
Telephone: (612) 766-7000  
Facsimile: (612) 766-1600  
Email: elizabeth.scheibel@faegredrinker.com

*Attorneys for Defendant Microsoft Corporation*